

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant(s): Wilhelm Aures et al.
Appl. No.: 10/089,319
Conf. No.: 7284
Filed: March 29, 2002
Title: AUTOMATIC TRIGGERING OF CHANNELS OF LOWER PRIORITY
DURING NETWORK OVERLOAD
Art Unit: 2619
Examiner: G. B. Sefcheck
Docket No.: 0118744-00053

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF

Sir:

I. INTRODUCTION

Appellants submit Appellants' Reply Brief in response to the Examiner's Answer dated June 18, 2008 pursuant to 37 C.F.R. § 41.41(a). Appellants respectfully submit the Examiner's Answer has failed to remedy the deficiencies with respect to the Final Office Action dated October 18, 2007 as noted in Appellants' Appeal Brief filed on April 14, 2008 for at least the reasons set forth below. Accordingly, Appellants respectfully request that the rejections of pending Claims 1, 2, 6-14 and 17 be reversed.

In response to the Examiner's "Response to Arguments" beginning on page 12, paragraph (10) of the Examiner's Answer, Appellants submit the following reply in addition to the remarks of record.

I. 35 USC 103 Rejections

A. Ertz fails to disclose determining the priority of a call using destination information items transferred in the course of the call

The Examiner argues that the background of Ertz at column 1 makes it "clear that Ertz disclosure of emergency calls is from within the larger, more general PSTN, in which subscribers communicate via non-emergency calls." Appellants respectfully disagree with the Examiner.

Ertz fails to deal with prioritizing calls. Rather, Ertz simply discusses prioritizing destinations to which a call may be routed. Specifically, an emergency call is routed to the nearest public safety answering point or to another public safety answering point if the nearest point is not available. Thus, destinations for a particular call can be distinguished by their priority, but there is no mechanism for determining a priority of a call or for distinguishing calls by such non-existent priorities. Here, the Examiner now appears to be taking the position that call prioritization occurs since there are two forms of calls, namely emergency and non-emergency calls. However, the claimed invention is dealing with prioritization of "high-priority" calls. Clearly, a non-emergency call is not a high-priority, and the call is not assigned as such.

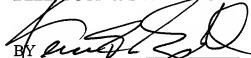
II. CONCLUSION

For the foregoing reasons, Appellants respectfully submit that the Examiner's Answer does not remedy the deficiencies noted in Appellants' Appeal Brief with respect to the Final Office Action. Appellants respectfully submit that the Patent Office has failed to establish

No fee is due in connection with this Reply Brief. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 118744-53 on the account statement.

Respectfully submitted,

BELL BOYD & LLOYD LLC

BY 

Kevin R. Spivak
Reg. No. 43,148
Customer No.: 29177
Phone: (202) 955-7007

Dated: August 18, 2008